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CASE NUMBER: 17-2-13662-0 SEA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

RENTAL HOUSING ASSOCIATION, a
Washington corporation,

Plaintiff,

v.

CITY OF SEATTLE, a municipal corporation
of the State of Washington,

Defendant.

NO.

COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTION

I. INTRODUCTION

1.1 The City of Seattle (City) is said to be suffering from a shortage of affordable rental housing. This shortage has been attributed in part to land use policies that foster demolition of longstanding affordable rental units and to zoning that does not protect existing affordable housing stock. New units may be developed and may offer greater amenities, but at a significantly higher cost.

1.2 In the face of this challenge, the City of Seattle has chosen to scapegoat those who provide rental housing and to progressively impose, including on small landlords for whom the regulatory burden is particularly severe, a cumulative web of oppressive regulations as if invasive municipal management of residential rental property will solve the housing affordability situation. In doing so, the City of Seattle has crossed the barrier established by

1 both Washington statute and the Washington Constitution against rent control and oppressive
2 legislation.

3 1.3 This lawsuit in particular challenges City of Seattle Ordinance 125222 (“the
4 Ordinance”) and its amendments to the Seattle Municipal Code, which is now codified in
5 Seattle Municipal Code Ch. 7.24. The new provisions and amendments adopted by the
6 Ordinance limit the amount of security deposits and non-refundable move-in fees that
7 landlords may charge tenants for residential rental properties. They simultaneously bar
8 landlords from requiring upfront payment of a security deposit, non-refundable fees, and last
9 month’s rent to protect their property as is customary in the residential rental industry.
10 Instead, they require that landlords allow tenants to make such payments in installments
11 spread out over six months’ time. In doing so, the City Council chose not to devote public
12 funds to assist tenants in making typically required security deposits and rental payments.
13 Instead it chose to shift that burden to landlords by controlling when and in what amounts
14 those payments could be required by landlords.
15

16 1.4 Therefore, as explained further more below, the Ordinance provisions
17 challenged in this action violate RCW 35.21.830, the statute adopted by the Legislature in
18 1981 to preempt and bar municipalities from imposing “controls on rent” and from regulating
19 “the amount of rent.”
20

21 1.5 The Ordinance and the specific provisions challenged in this action also violate
22 Washington Constitution Article I, Section 16 (Takings); Article I, Section 3 (Substantive
23 Due Process); and Article I, Section 5 (Freedom of Speech).

24 1.6 These provisions unlawfully attempt to control the financial rental relationship
25 between residential tenants and landlords, forcibly enlisting Rental Housing Association of
26 Washington members in addressing social ills such as housing unaffordability that are the
responsibility of the community as a whole.

1.7 Accordingly, Plaintiff is entitled to a declaration that the Ordinance and the specific challenged provisions are unlawful, invalid and unenforceable. Plaintiff is further entitled to an injunction barring the City from taking any action to implement or enforce the Ordinance and its specific challenged provisions.

II. PARTIES

2.1 Plaintiff Rental Housing Association of Washington (RHA or Plaintiff) is a public benefit corporation registered with the Washington State Secretary of State. RHA has its roots in a Seattle based organization started in 1935. In the ensuing 80 years, RHA has maintained its Seattle base while growing into a resource and representative for residential landlords throughout Washington.

2.2 RHA has over 5,000 members and represents the interests of its members in this action. There are 17,460 Seattle landlords who own four units or less. Half of RHA landlords only own one or two rental units; and many of those are in Seattle. RHA members will therefore be particularly, directly, and adversely affected by implementation and enforcement of the Ordinance and the specific provisions challenged here. They will suffer irreparable harm if the City is not enjoined from enforcing its unlawful provisions.

2.3 The City of Seattle is a Washington state municipality/municipal corporation located in King County.

2.4 RHA is serving the Washington Attorney General pursuant to RCW 7.24.110.

III. JURISDICTION AND VENUE

3.1 The Superior Court has jurisdiction over this action pursuant to; *inter alia*, RCW 2.08.010, RCW 4.28.020, RCW 7.24.010, RCW 7.40.010 and Article IV, Sections 1 and 6, of the Washington State Constitution.

3.2 Under RCW 4.12.020 and RCW 4.12.025, venue is proper in King County Superior Court because Defendant City of Seattle is in King County and transacts business in King County and the cause of action arose in King County.

IV. ALLEGATIONS

4.1 On December 12, 2016, the Seattle City Council passed the Ordinance that is the subject of this action, i.e. Ordinance 125222, relating to residential rental properties and amending and adding numerous sections of SMC 7.24; the Ordinance was also identified as Council Bill 118817.

4.2 On December 16, 2016, the Mayor of Seattle signed the Ordinance and its amendments to SMC 7.24 into law. A copy of the Ordinance along with the Seattle City Council Legislative Summary and commenting correspondence from the Mayor is attached to this Complaint as **Exhibit A**.

4.3 Per section 14 of Ordinance 125222, its amendments to SMC 7.24 became effective on January 15, 2017. Ordinance 125222 at p.29 (“This ordinance shall take effect and be in force 30 days after its approval by the Mayor. . .”).

4.4 The prefatory language to the Ordinance explains its purpose with specific reference to “rent increases” and controlling the financial relationship between landlords and tenants:

WHEREAS, before moving into a rental unit, landlords typically require that tenants pay some type of security deposit to ensure that the tenant will comply with certain provisions of the rental agreement, such as payment for damage to the dwelling unit or cleaning the unit when the tenant vacates the unit; and

WHEREAS, before moving into a rental unit, landlords sometimes also require payment of nonrefundable fees such as fees for tenant screening reports or cleaning; and

WHEREAS, before moving into a rental unit, landlords typically require that tenants prepay the last month's rent; and

1 WHEREAS, rents in Seattle have been increasing rapidly and
2 vacancies in rental housing are at low levels, making it increasingly
3 difficult for tenants, especially those with limited finances, to obtain
rental housing; and

4 WHEREAS, rent increases may cause a tenant to move due to inability
5 to pay the increased rent; and

6 WHEREAS, these conditions in the rental market have created a
7 relocation crisis, because tenants, especially those with limited
8 finances, may be unable to save money to pay security deposits, non-
refundable move-in fees, and last month's rent; and

9 WHEREAS, payment of security deposits, nonrefundable move-in fees,
10 and last month's rent in advance of tenancy, especially for people with
limited finances, is one of the barriers to obtaining housing; and

11 WHEREAS, limiting the amount a landlord can charge for a security
12 deposit and non-refundable move-in fees will help reduce this barrier
13 and allow people to prepare for moving expenses with more certainty;
and

14 WHEREAS, allowing tenants to pay security deposits, non-refundable
15 move-in fees, and last month's rent in installments will help reduce this
barrier; and

16 WHEREAS, the City Council finds that this ordinance will protect and
17 promote the health, safety, and welfare of the general public; NOW,
18 THEREFORE,

Ordinance at 1-2.

19 4.5 While approving the Ordinance, the Mayor of Seattle identified its significant
20 shortcomings in his December 16, 2016 letter to the Seattle City Clerk:
21

22 I have signed and am returning Council Bill 118817 to the Office of the
City Clerk with the following statement:

23
24 Increasing access to affordable housing is a cornerstone of my
administration. I wholeheartedly support the goal of protecting tenants,
25 which is why I have signed this legislation despite some reservations
about its impacts on small landlords. The restriction on security
26 deposits has the potential to open family-run rentals up to increased
risk. Additionally, these small properties frequently do not have the
staff or oversight to keep up with the ever-changing regulatory

framework around rental properties.

According to the Seattle Department of Construction and Inspections, 21 percent of rental units in Seattle are housed on properties with fewer than five units. Such properties are the heart of our naturally occurring affordable housing stock, and I am concerned this bill could lead to more small rentals raising rents or selling their properties to expensive professional property management companies.

I am pleased that the bill requests the City Auditor evaluate the impacts of this legislation once it is implemented in order to inform future decisions about maintaining or amending the policy. I am eager to see what we learn, and as these new regulations go into effect next year I will be closely monitoring their impact to see if any changes are needed to preserve affordability.

Despite his acknowledgement of the harm to tenants as well as landlords from the legislation, the Mayor signed it on the basis that the Auditor might “evaluate” its impacts after it took effect. A copy of the Mayor’s December 16, 2016 letter is the final page in **Exhibit A**, the attachment to this Complaint.

4.6 One new section added to SMC Ch. 7.24 by the Ordinance is SMC 7.24.035 which provides:

7.24.035 Security deposits and nonrefundable move-in fees

- A. Limit on the amount of charges for security deposits and non-refundable move-in fees. After the effective date of the ordinance introduced as Council Bill 118817, the total amount of a security deposit and nonrefundable move-in fees may not exceed the amount of the first full month’s rent for the tenant’s dwelling unit. If rent is not paid or otherwise apportioned on a monthly basis, then for the sole purpose of applying this limit the total rent shall be pro-rated on an equal, monthly basis and the total charge to a tenant for the cost of a security deposit and nonrefundable move-in fees may not exceed the pro-rated, monthly rental amount.
- B. Restrictions on fees
 - 1. Other than non-refundable move-in fees, security deposits, pet security deposits, and last month’s rent, landlords are prohibited from charging tenants any one-time fee at the beginning of the tenancy.

1 2. Pursuant to RCW 59.18.257, any fees
2 charged to a prospective tenant by the landlord for
3 the cost of obtaining a tenant screening report
4 cannot exceed the actual cost of obtaining the
5 report, which may not exceed the customary costs
6 charged by a tenant screening service in The City of
7 Seattle. The landlord shall provide, personally or by
8 mail, the prospective tenant with a receipt for any
9 fees charged for the cost of obtaining the screening
10 report. The landlord shall provide the tenant with
11 the name and address of the reporting agency and
12 the prospective tenant's rights to obtain a free copy
13 of the consumer report, pursuant to RCW
14 59.18.257.

15 3. If the tenant has paid a non-refundable
16 move-in fee for cleaning, the landlord may not
17 deduct additional cleaning fees from the tenant's
18 security deposit.

19 4. The total amount of non-refundable move-in
20 fees may not exceed ten percent of the first full
21 month's rent, except that if the cost of a tenant
22 screening report exceeds ten percent of the first full
23 month's rent, the amount in excess of ten percent
24 may be included in the non-refundable fee but may
25 not exceed the customary costs charged by a
26 screening service in The City of Seattle.

 C. Fee payments in installments. Except as provided in subsection
7.24.035.C.4, tenants may pay security deposits and non-
refundable move-in fees in installments as provided below.
Landlords may not impose any fee, charge any interest, or
otherwise impose a cost on a tenant because a tenant elects to pay
in installments.

 1. For any rental agreement term that
establishes a tenancy for six months or longer, the
tenant may elect to pay the security deposit and
non-refundable move-in fees, excluding any
payment made by a tenant to the landlord prior to
the inception of tenancy to reimburse the landlord
for the cost of obtaining a tenant screening report, in
six consecutive, equal monthly installments that
begin at the inception of the tenancy or, the tenant
may propose an alternative installment schedule. If
the landlord agrees to the tenant's alternative
installment schedule the schedule shall be described
in the rental agreement.

1 2. For any rental agreement term that
2 establishes a tenancy between 30 days and six
3 months, the tenant may elect to pay the security
4 deposit and non-refundable move-in fees, excluding
5 any payment made by a tenant to the landlord prior
6 to the inception of tenancy to reimburse the landlord
7 for the cost of obtaining a tenant screening report, in
8 no more than four equal amounts that begin at the
9 inception of the tenancy and are paid in installments
10 of equal duration or, the tenant may propose an
11 alternative installment schedule. If the landlord
12 agrees to the tenant's alternative installment
13 schedule the schedule shall be described in the
14 rental agreement.

15 3. For any rental agreement term that
16 establishes a tenancy from month to month, the
17 tenant may elect to pay the security deposit and
18 non-refundable move-in fees, excluding any
19 payment made by a tenant to the landlord prior to
20 the inception of tenancy to reimburse the landlord
21 for the cost of obtaining a tenant screening report, in
22 two equal installments. The first payment is due at
23 the inception of the tenancy and the second payment
24 is due on the first day of the second month or period
25 of the tenancy or, the tenant may propose an
26 alternative installment schedule. If the landlord
agrees to the tenant's alternative installment
schedule the schedule shall be described in the
rental agreement.

4. The tenant cannot elect to pay the security
deposit and non-refundable move-in fees in
installments if (a) the total amount of the security
deposit and nonrefundable move-in fees does not
exceed 25 percent of the first full month's rent for
the tenant's dwelling unit; and (b) payment of last
month's rent is not required at the inception of the
tenancy.

5. A tenant's failure to pay a security deposit
and non-refundable move-in fee according to an
agreed payment schedule is a breach of the rental
agreement and subjects the tenant to a 10-day notice
pursuant to RCW 59.12.030(4).

D. Return or retention of security deposits. The return or retention of a
security deposit, or portion thereof, must comply with the
requirements of RCW 59.18.280. The Director may establish by

rule procedures for enforcement of the requirements of RCW 59.18.280.

- E. No deposit may be collected by a landlord unless the rental agreement is in writing and a written checklist or statement specifically describing the condition and cleanliness of or existing damages to the premises and furnishings, including, but not limited to, walls, floors, countertops, carpets, drapes, furniture, and appliances, is provided by the landlord to the tenant at the commencement of the tenancy. The checklist or statement shall be signed and dated by the landlord and the tenant, and the tenant shall be provided with a copy of the signed checklist or statement.
- F. A landlord must place any required security deposit in a trust account and provide a written receipt and notice of the name, address, and location of the depository and any subsequent change thereof to the tenant, in compliance with the requirements of RCW 59.18.270.
- G. Nothing in this Chapter 7.24 prohibits a landlord from bringing an action against a tenant to recover sums exceeding the amount of the tenant's security deposit for damage to the dwelling unit for which the tenant is responsible. The landlord may seek attorney's fees for such an action as authorized by chapter 59.18 RCW.
- H. This Section 7.24.035 does not apply to a tenant who rents a housing unit in a single-family residence if the residence is the principal residence of the owner of the residence.

Ordinance at 7-11; SMC 7.24.035.

4.7 Another new section added to SMC 7.24 by the Ordinance is SMC 7.24.036 which provides:

7.24.036 Installment payment option for last month's rent

A tenant may elect to pay last month's rent in installments as follows:

- A. For any rental agreement term that establishes a tenancy for six months or longer, the tenant may elect to pay the last month's rent in six consecutive, equal monthly installments that begin at the inception of the tenancy or, the tenant may propose an alternative installment schedule. If the landlord agrees to the tenant's alternative installment schedule the schedule shall be described in the rental agreement.
- B. For any rental agreement term that establishes a tenancy between 60 days and six months, the tenant may elect to pay the last month's rent in no more than four equal amounts that begin at the inception of the

1 tenancy and are paid in installments of equal duration or, the tenant
2 may propose an alternative installment schedule. If the landlord
3 agrees to the tenant's alternative installment schedule the schedule
4 shall be described in the rental agreement.

5 C. Landlords may not impose any fee, charge any interest, or otherwise
6 impose a cost on a tenant because a tenant elects to pay the last
7 month's rent in installments.

8 D. This Section 7.24.036 does not apply to a tenant who rents a housing
9 unit in a single-family residence if the residence is the principal
10 residence of the owner of the residence.

11 Ordinance at 11; SMC 7.24.036.

12 4.8 SMC 7.24.038, added to SMC 7.24, extends the Ordinance's web of complex
13 controls on financial rental arrangements to pet damage deposits and pet damage, including a
14 control stating that "the landlord may not charge the tenant any fee for keeping a pet:"

15 **7.24.038 Pet Damage Deposits**

16 A. Except as provided in subsection 7.24.038.B, the landlord may
17 require payment of a pet damage deposit provided that the total
18 amount of the pet damage deposit may not exceed 25 percent of
19 the first full month's rent, regardless of the time when the pet
20 damage deposit is paid. If rent is not paid or otherwise apportioned
21 on a monthly basis then for the sole purpose of applying this limit
22 the total rent shall be pro-rated on an equal, monthly basis and the
23 total charge to a tenant for the pet damage deposit may not exceed
24 25 percent of the pro-rated, monthly rental amount.

25 B. The landlord may not require a pet damage deposit if the pet serves
26 as an assistance animal for the tenant. This prohibition does not
prohibit a landlord from bringing an action for damages resulting
from damage to the landlord's property caused by the tenant's
assistance animal.

C. If the pet's occupancy begins at the beginning of tenancy, the
amount of the pet damage deposit shall be specified in a rental
agreement. If the pet's occupancy begins after the beginning of the
tenancy, the amount of the pet damage deposit shall be specified in
an addendum to the rental agreement. The tenant may elect to pay
the pet damage deposit in three consecutive, equal monthly
installments that begin when the pet first occupies the rental unit
or, the tenant may propose an alternative installment schedule. If
the landlord agrees to the tenant's alternative installment schedule
the schedule shall be described in the rental agreement.

1 D. The landlord cannot keep any portion of the pet damage deposit for
2 damage that was not caused by pets for which the tenant is
3 responsible.

4 E. Other than the pet damage deposit authorized by subsection
5 7.24.038.A, the landlord may not charge the tenant any fee for
6 keeping a pet.

7 4.9 The Ordinance also adds these new definitions to SMC 7.24.020:

8 "Last month's rent" means money that is paid as rent for the last month of
9 a residential tenancy and that is paid at the inception of the tenancy or in
10 installments as authorized by Section 7.24.036.

11 "Month-to-month tenancy" means a residential tenancy of an indefinite
12 period with monthly or other periodic rent reserved.

13 "Non-refundable move-in fees" means non-refundable fees paid by a
14 tenant to reimburse a landlord for the cost of obtaining a tenant screening
15 report, criminal background check, or credit report or to pay for cleaning
16 of the dwelling unit upon termination of the tenancy, but does not include
17 payment of a reservation fee authorized by RCW 59.18.253(2).

18 "Pet damage deposit" means money that is paid by the tenant to the
19 landlord at any time as security to pay for damage to the landlord's
20 property that is caused by a pet for which the tenant is responsible.

21 "Security deposit" means any payment, fee, charge, or deposit of money
22 paid to the landlord by the tenant at the beginning of the tenancy as a
23 deposit and security for performance of the tenant's obligations in a
24 written rental agreement, but does not include payment of a reservation fee
25 authorized by RCW 59.18.253(2) or a payment to assure the payment of
26 rent, provided that a security deposit may be applied to rent as provided in
Section 7.24.030. Security deposits include payments, charges, or deposits
for the purpose of:

1. Repairing damage to the premises, exclusive of
ordinary wear and tear, caused by the tenant, or by a guest
or licensee of the tenant.

2. Compensating the landlord for the tenant's breach
of the tenant's duties prescribed in the rental agreement to
restore, replace, or return personal property or
appurtenances.

3. Compensating the landlord for the tenant's failure
to return keys to the premises, except that a landlord shall
not retain any portion of the deposit for keys for lock
mechanisms that must be changed upon a change of
tenancy pursuant to subsection 22.206.140.A.7.

1 Ordinance at 3-4; SMC 7.24.020.

2 4.10 The Ordinance amends SMC 7.24.030 to impose new requirements on rental
3 agreements entered into after the effective date of the Ordinance. Ordinance at 4-7.

4 4.11 One of the new requirements imposes controls on allocation of tenant
5 payments among rent and other payments due:

6
7 . . . When any monthly or periodic payment is made pursuant to the rental
8 agreement, the landlord shall first apply the payment to the rent due before
9 applying it to other payments due by the tenant to the landlord, except that
10 if the payment is made in response to a notice issued pursuant to RCW
11 59.12.030 during the period of that notice, the landlord shall first apply the
12 payment to the amount specified in that notice, before applying it to the
13 rent due or to other payments due by the tenant to the landlord.

14 Ordinance at 6-7, SMC 7.24.030.E.

15 4.12 The Ordinance adds several new sections to SMC Ch.7.24 regarding
16 enforcement of its provisions by the Director of the Seattle Department of Construction and
17 Inspections or the Director's designee and authorizes criminal jeopardy for violations.
18 Ordinance at 17-27; SMC 7.24.120 - .160.

19 4.13 Per the Ordinance, "First and second violations of this Chapter 7.24 shall be
20 enforced under the citation provisions set forth in Section 7.24.130. Subsequent violations
21 may be enforced, at the Director's discretion, under the notice of violation provisions set forth
22 in Section 7.24.140 or criminal provisions set forth in Section 7.24.150." Ordinance at 17-18;
23 SMC 7.24.120.B.

24 4.14 The citation procedures for violations of SMC 7.24 are specified in SMC
25 7.24.130, which the Ordinance added to SMC 7.24. Per the Ordinance:

26 The following penalties shall be assessed for violations of any
provision of this Chapter 7.24:

- a. Five hundred dollars for the first violation; and
- b. One thousand dollars for each subsequent violation within a 5-year period.

1 Ordinance at 23; SMC 7.24.130.F.1.

2 4.15 The notice of violation procedures for violations of SMC 7.24 are specified in
3 SMC 7.24.140, which the Ordinance added to SMC 7.24. Per the notice of violation
4 procedures:

5 any person violating or failing to comply with any of the provisions of this
6 Chapter 7.24 shall be subject to a cumulative penalty of up to \$150 per
7 day for each violation from the date the violation begins for the first ten
8 days of noncompliance; and up to \$500 per day for each violation for each
9 day beyond ten days of noncompliance until compliance is achieved. In
10 cases where the Director has issued a notice of violation, the violation will
11 be deemed to begin for purposes of determining the number of days of
12 violation on the date compliance is required by the notice of violation. The
13 City shall also be entitled to recovery of its enforcement costs, including
14 but not limited to staff time, administrative expenses and fees, and
15 attorneys' fees.

16 Ordinance at 26; SMC 7.24.140.D.1.

17 4.16 The Ordinance further authorizes criminalizing violations of SMC 7.24 and
18 lessening the city's burden of proof for criminal violations:

19 Any person who violates or fails to comply with any of the provisions in
20 this Chapter 7.24 and who has had at least two or more citations and one
21 notice of violation issued against them for violating this Chapter 7.24
22 within the past three years from the date the criminal charge is filed shall
23 upon conviction be guilty of a misdemeanor subject to the provisions of
24 Chapters 12A.02 and 12A.04, except that absolute liability shall be
25 imposed for such a violation or failure to comply and none of the mental
26 states described in Section 12A.04.030 need be proved. The Director may
request the City Attorney prosecute such violations criminally as an
alternative to the citation and notice of violation procedures outlined in
this chapter.

27 Ordinance at 27; SMC 7.24.150.

28 4.17 The Ordinance also purports to create a private right of action for a tenant
29 against a landlord who enforces provisions in a rental agreement that are determined to be
30 contrary to the various technical requirements of SMC 7.24.030, 7.24.035, 7.24.036 or

1 7.24.038, making the landlord liable to the tenant for actual damages, double any City
2 penalties, double the amount of any security deposit unlawfully charged or withheld and
3 attorney fees and costs:
4

5 **7.24.060 Private right of action**

6 A. Landlord liability to tenant

7 1. If a landlord attempts to enforce provisions in a
8 rental agreement that are contrary to the requirements of
9 Sections 7.24.030, 7.24.035, 7.24.036, or 7.24.038, the
10 landlord shall be liable to the tenant for: 1) any actual
11 damages incurred by the tenant as a result of the landlord's
12 attempted enforcement; 2) double the amount of any
13 penalties imposed by the City; 3) double the amount of any
14 security deposit unlawfully charged or withheld by the
15 landlord; and 4) reasonable attorney fees and costs.

16 Ordinance at 13-14; SMC 7.24.060.A.1.

17 4.18 The private right of action goes even further, also making a landlord liable to a
18 tenant "for up to \$3,000 plus reasonable attorney fees and costs" for including provisions in
19 the rental agreement prohibited by 7.24.030.B, Section 7.24.035, Section 7.24.036, or Section
20 7.24.038, regardless of whether the landlord attempts to enforce the provision or simply has
21 mistakenly violated the new requirements:
22

23 2. A landlord who includes provisions prohibited by
24 subsection 7.24.030.B, Section 7.24.035, Section 7.24.036,
25 or Section 7.24.038 in a new rental agreement, or in a
26 renewal of an existing agreement, shall be liable to the
tenant for up to \$3,000 plus reasonable attorney fees and
costs.

Ordinance at 14; SMC 7.24.060.A.2.

4.19 A tenant may terminate the rental agreement and also obtain actual damages,
attorney fees, and a penalty of between \$500 and \$1,000, depending on whether the violation

1 was deliberate, from a landlord who violates SMC 7.24.080 by failing to provide the tenant
2 summaries prepared by the Director under SMC 7.24.070:

3 B. Remedies for tenants if landlord fails to comply

4 1. If a landlord fails to comply with the requirements
5 of subsections 7.24.080.A or 7.24.080.B and such failure
6 was not caused by the tenant, the tenant may terminate the
rental agreement by written notice pursuant to law.

7 2. In addition to the remedy provided by subsection
8 7.24.060.B.1, if a landlord fails to comply with the
9 requirements of Section 7.24.080, the tenant may recover in
10 a civil action from the landlord actual damages, attorney
11 fees, and a penalty of up to \$500. If a court determines that
the landlord deliberately failed to comply with the
requirements of Section 7.24.080, the penalty may be up to
\$1,000.

12 Ordinance at 14; SMC 7.24.060.B.

13 4.20 This action challenges the Ordinance and each of the specific provisions
14 referenced in the preceding paragraphs both individually and cumulatively.

15 4.21 The Ordinance and the specific provisions challenged in this action are
16 “controls on rent” and also “regulate the amount of rent” in violation of RCW 35.21.830.

17 4.22 The right to rent property, the right to rent property on financial terms of one’s
18 choosing, and the right to collect security deposits up front in an amount that the owner
19 deems necessary to protect property and ensure performance of a tenant’s obligations, as is
20 customary in the residential rental industry, are, *inter alia*, fundamental attributes of property
21 ownership.

22 4.23 The Ordinance and the specific provisions challenged in this action deprive
23 property owners of one or more fundamental attribute of ownership in violation of Article I,
24 Section 16, of the Washington State Constitution.

25 4.24 The Ordinance and the specific provisions challenged in this action deprive
26 landlords of interest to which they are entitled under RCW 59.18.270 and which would

1 otherwise accrue if the full amount of the security deposit was paid up front rather than over
2 six months' time.

3 4.25 The Ordinance and the specific provisions challenged in this action, by
4 requiring landlords to accept payment of security deposits, non-refundable move-in fees, and
5 last month's rent over six months' time (and pet deposits over three months' time) rather than
6 collecting these amounts in full at the beginning of the tenancy, as is customary in the
7 residential rental industry, force landlords to rent their property without adequate security to
8 protect their property and to ensure performance of tenant obligations.
9

10 4.26 The Ordinance and the specific provisions challenged in this action prohibit a
11 landlord from charging a tenant any one-time fees at the beginning of a tenancy – except for
12 those fees within the definition of “non-refundable move-in fees”, security deposits, pet
13 security deposits, and last month's rent – regardless of whether the landlord does in fact incur
14 additional legitimate costs in connection with a new tenancy and regardless of whether the
15 tenant makes a request that would result in the additional one-time fee.

16 4.27 The Ordinance and the specific provisions challenged in this action cap the
17 total amount of a security deposit and nonrefundable move-in fees so as to not exceed the
18 amount of the first full month's rent for the tenant's dwelling unit in all cases irrespective of a
19 landlord's actual costs or the monthly lease rate and regardless of whether or not such amount
20 is adequate to provide the landlord security in his or her property interest or to ensure
21 performance of the tenant's obligations.
22

23 4.28 The Ordinance and the specific provisions challenged in this action appropriate
24 private property for private use in violation of Article I, Section 16, of the Washington State
25 Constitution.

26 4.29 Under the Ordinance and the specific provisions challenged in this action, the
failure to include required language in a rental agreement or the inclusion of an improper term

1 in a rental agreement, regardless of whether the error is technical or landlord the attempts to
2 enforce it, could result in substantial financial liability to tenants and imposition of City fines.
3 For example, a landlord with a single unit who adopts a form lease that is somehow deficient
4 or erroneous in a technical aspect would be liable to a tenant in an amount up to \$3,000 (plus
5 attorney fees and costs), as well as whatever fines the City imposes. A landlord with several
6 units rented using a form lease containing an error would be liable to each and every tenant
7 who signed the lease in an amount up to \$3,000 (plus attorney fees and costs), as well as
8 whatever fines the City imposes. Further, the landlord could also be subject to criminal
9 liability.
10

11 4.30 Under the Ordinance, failing to give the tenant at the beginning of the tenancy
12 the actual summary of laws prepared by the Director (as opposed, e.g., to a notice or link
13 showing where to find it) results in landlord liability for: a \$500.00 payment to the tenant;
14 attorney fees and costs to the tenant; City fines. The omission also would permit a tenant to
15 terminate the tenancy in violation of its terms.

16 4.31 The Ordinance and the specific provisions challenged in this action use means
17 that are not reasonably necessary to achieve the Ordinance's purpose(s), are unduly
18 oppressive, and deprive property owners of property without due process of law in violation
19 of Article I, Section 3, of the Washington State Constitution.
20

21 4.32 The Ordinance and the specific provisions challenged in this action
22 impermissibly and unlawfully attempt to shift the burden for solving the affordable housing
23 problem in the City of Seattle from the general public to individual property owners, with a
24 particular burden on small landlords and in a manner that is irrational.

25 4.33 The Ordinance and the specific provisions of it challenged in this action,
26 whether considered individually or cumulatively, are unlawful and violate RCW 35.21.830
and Article I, Sections 3, 5, and 16 of the Washington State Constitution.

1 4.34 The Ordinance and the specific provisions challenged in this action, cumulated
2 with the complex web of regulation imposed on Seattle landlords, including “first in time
3 requirements”, exacerbate each of the deprivation of rights alleged above.

4 **V. FIRST CAUSE OF ACTION: DECLARATORY JUDGMENT (RCW 7.24)**

5 5.1 Plaintiff re-alleges, reasserts and incorporates the allegations in the paragraphs
6 above as if fully set forth here.

7 5.2 Plaintiff is entitled to a declaration that the Ordinance and the specific
8 provisions of it challenged in this action are “controls on rent” and also “regulate the amount
9 of rent” all in violation of RCW 35.21.830, which provides:
10

11 The imposition of controls on rent is of statewide significance and is
12 preempted by the state. No city or town of any class may enact, maintain, or
13 enforce ordinances or other provisions which regulate the amount of rent to be
14 charged for single-family or multiple-unit residential rental structures or sites
15 other than properties in public ownership, under public management, or
16 properties providing low-income rental housing under joint public-private
17 agreements for the financing or provision of such low-income rental housing.
18 This section shall not be construed as prohibiting any city or town from
19 entering into agreements with private persons which regulate or control the
20 amount of rent to be charged for rental properties.

21 5.3 Plaintiff is entitled to a declaration that the Ordinance and the specific
22 provisions challenged in this action deprive property owners of a fundamental attribute of
23 ownership and also appropriate private property for private use all in violation of Article I,
24 Section 16, of the Washington State Constitution, which provides:
25

26 Private property shall not be taken for private use, except for private ways of
necessity, and for drains, flumes, or ditches on or across the lands of others for
agricultural, domestic, or sanitary purposes. No private property shall be taken
or damaged for public or private use without just compensation having been
first made. . .

 5.4 Plaintiff is entitled to a declaration that the Ordinance and the specific
provisions challenged in this action use means that are not reasonably necessary to achieve

1 the Ordinance's purpose(s), are unduly oppressive, and deprive property owners of property
2 without due process of law all in violation of Article I, Section 3, of the Washington State
3 Constitution, which provides:

4 No person shall be deprived of life, liberty, or property, without
5 due process of law.

6 5.5 Plaintiff is entitled to a declaration that the Ordinance and the specific
7 provisions challenged in this action impermissibly impose on individual private landlords
8 what should be the common burden of the City as a whole to underwrite governmental
9 "solutions" to the affordable housing situation in the City of Seattle.
10

11 5.6 Plaintiff is entitled to a declaration that the Ordinance and the specific
12 provisions challenged in this action are unlawful, invalid and unenforceable because they
13 violate RCW 35.21.830 and the following sections of the Washington State Constitution:
14 Article I, Section 3; Article I, Section 5; and Article I, Section 16.

15 **VI. SECOND CAUSE OF ACTION: PERMANENT INJUNCTION (RCW 7.40)**

16 6.1 Plaintiff re-alleges, reasserts and incorporates the allegation set forth in the
17 paragraphs above as if fully set forth here.

18 6.2 Plaintiff has no adequate remedy at law and will suffer irreparable injury
19 absent an injunction restraining the City from enforcing the Ordinance and the specific
20 provisions of it which are unlawful, invalid and unenforceable.

21 6.3 Plaintiff is entitled to permanent injunctive relief barring the City from taking
22 any action to implement or enforce the Ordinance and the specific provisions challenged in
23 this action which are unlawful, invalid and unenforceable.
24

25 **VII. PRAYER FOR RELIEF**

26 Plaintiff prays for the following relief:

1 a. For a declaration that the Ordinance and the specific provisions of it
2 challenged in this action are unlawful, invalid and unenforceable because they violate RCW
3 35.21.830 and the following sections of the Washington State Constitution: Article I, Section
4 3; Article I, Section 5; and Article I, Section 16.

5 b. For a permanent injunction barring the City from taking any action to
6 implement or enforce the Ordinance and the specific provisions of it challenged in this action,
7 including but not limited to any action pursuant to regulations adopted by the City to
8 implement the Ordinance and the specific provisions of it challenged in this action.
9

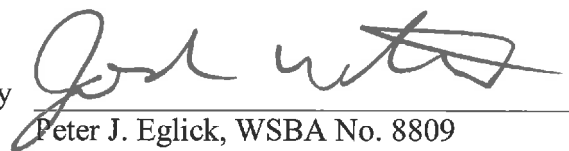
10 c. For an award of reasonable attorney fees, expenses and costs as allowed by law
11 and equity, including but not limited to RCW 4.848.010 and RCW 7.24.100; as well as
12 common and case law.

13 d. For such other relief as the Court deems just and proper.

14 Respectfully submitted this 30th day of May, 2017.

15
16
17 EGLICK & WHITED PLLC

18
19 By



20 Peter J. Eglick, WSBA No. 8809
21 Joshua A. Whited, WSBA No. 30509
22 Attorneys for Plaintiff
23
24
25
26



SEATTLE CITY COUNCIL

Legislative Summary

CB 118817

Record No.: CB 118817

Type: Ordinance (Ord)

Status: Passed

Version: 4

Ord. no: Ord 125222

In Control: City Clerk

File Created: 09/20/2016

Final Action: 12/16/2016

Title: AN ORDINANCE relating to residential rental properties; amending Sections 7.24.020, 7.24.030, 7.24.040, 7.24.050, 7.24.060, 7.24.070, and 7.24.080 of the Seattle Municipal Code (SMC); adding new Sections 7.24.035, 7.24.036, 7.24.038, 7.24.110, 7.24.120, 7.24.130, 7.24.140, 7.24.150, 7.24.160, 7.24.170, 7.24.180, 7.24.190, 7.24.200, and 7.24.210 to the SMC; and repealing Section 7.24.090 of the SMC; all to limit the amount of security deposits and non-refundable move-in fees, to allow residential tenants to pay security deposits, non-refundable move-in fees, and last month's rent in installments, and to establish enforcement provisions for Chapter 7.24.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Sawant

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Proposed Amendment

Drafter: patrick.wigren@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

☐ Yes

☐ No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	09/20/2016	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	09/22/2016	sent for review	Energy and Environment Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Energy and Environment Committee						
	Notes:						

1 Full Council 09/26/2016 referred Energy and Environment Committee

1 Energy and Environment Committee 09/27/2016 pass as amended Pass

Action Text: The Committee recommends that Full Council pass as amended the Council Bill (CB).
In Favor: 5 Chair Sawant, Vice Chair Juarez, O'Brien, Johnson, Herbold
Opposed: 0
Absent(NV): 1 Member González

2 Full Council 10/17/2016 referred Energy and Environment Committee Pass

Action Text: The Motion carried and the Council Bill was referred to the Energy and Environment Committee by the following vote:

Notes: Motion was made by Councilmember Juarez and duly seconded, to refer Council Bill 118817, to the Energy and Environment Committee with a Committee report to the Full Council on or before December 12, 2016.
In Favor: 7 Councilmember Bagshaw, Councilmember Burgess, Councilmember González, Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez
Opposed: 2 Councilmember O'Brien, Councilmember Sawant

2 Select Budget Committee 11/16/2016

2 Energy and Environment Committee 11/22/2016 pass as amended Pass

Action Text: The Committee recommends that Full Council pass as amended the Council Bill (CB).
Notes: The Committee recommended to forward this Council Bill to the December 12, 2016, Full Council meeting.
In Favor: 6 Chair Sawant, Vice Chair Juarez, Member González, Herbold, Johnson, O'Brien
Opposed: 0

3 Full Council 12/12/2016 passed as amended Pass

Action Text: The Motion carried, the Council Bill (CB) was passed as amended by the following vote, and the President signed the Bill:

Notes: ACTION 1:

Motion was made by Councilmember Johnson and duly seconded, to amend Council Bill 118817, Section 3, by adding new Seattle Municipal Code subsections 7.24.035.H and 7.24.036.D, as shown in the underlined language below:

Subsection 7.24.035.H.

H. This Section 7.24.035 does not apply to a tenant who rents a housing unit in a single-family residence if the residence is the principal residence of the owner of the residence.

Subsection 7.24.036.D.

D. This Section 7.24.036 does not apply to a tenant who rents a

housing unit in a single-family residence if the residence is the principal residence of the owner of the residence.

ACTION 2:

Motion was made, duly seconded and carried, to suspend Council Rule III.A.6, relating to the presentation of Full Council amendments at least two hours before the Full Council meeting.

ACTION 3:

Motion was made by Councilmember Herbold and duly seconded, to amend the amendment in Action 2, by deleting Seattle Municipal Code, subsections 7.24.035.H and 7.24.036.D, and by substituting, Seattle Municipal Code, subsection 7.24.036.A, as shown in the underlined and strike through language below:

Subsection 7.24.035.H

~~H. This Section 7.24.035 does not apply to a tenant who rents a housing unit in a single-family residence if the residence is the principal residence of the owner of the residence.~~

Subsection 7.24.036.D

~~D. This Section 7.24.036 does not apply to a tenant who rents a housing unit in a single-family residence if the residence is the principal residence of the owner of the residence.~~

Subsection 7.24.036.A

A. Limit on the amount of charges for security deposits and non-refundable move-in fees. Except as provided below, After the effective date of the ordinance introduced as Council Bill 118817, the total amount of a security deposit and nonrefundable move-in fees may not exceed the amount of the first full month's rent for the tenant's dwelling unit. If rent is not

paid or otherwise apportioned on a monthly basis, then for the sole purpose of applying this limit the total rent shall be pro-rated on an equal, monthly basis and the total charge to a tenant for the cost of a security deposit and nonrefundable move-in fees may not exceed the pro-rated, monthly rental amount. This limit does not apply to charges for security deposits and non-refundable move-in fees that are charged to a tenant who rents a housing unit in a single-family residence if the residence is the principal residence of the owner of the residence.

The Motion failed by the following vote:

In favor: 4 - Bagshaw, Herbold, O'Brien, Sawant

Opposed: 4 - Burgess, Harrell, Johnson, Juarez

ACTION 4:

The Motion in Action 2 was restated.

The Motion carried by the following vote:

In favor: 5 - Bagshaw, Burgess, Harrell, Johnson, Juarez

Opposed: 3 - Herbold, O'Brien, Sawant

ACTION 5:

Motion was made and duly seconded to pass Council Bill 118817 as amended.

In Favor: 8 Councilmember Bagshaw, Councilmember Burgess, Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien, Councilmember Sawant

Opposed: 0

4	City Clerk	12/14/2016	submitted for Mayor's signature	Mayor
4	Mayor	12/16/2016	Signed	
4	Mayor	12/16/2016	returned	City Clerk
4	City Clerk	12/16/2016	attested by City Clerk	

Action Text: The Ordinance (Ord) was attested by City Clerk.

Notes:

CITY OF SEATTLE

ORDINANCE 125222

COUNCIL BILL 118817

AN ORDINANCE relating to residential rental properties; amending Sections 7.24.020, 7.24.030, 7.24.040, 7.24.050, 7.24.060, 7.24.070, and 7.24.080 of the Seattle Municipal Code (SMC); adding new Sections 7.24.035, 7.24.036, 7.24.038, 7.24.110, 7.24.120, 7.24.130, 7.24.140, 7.24.150, 7.24.160, 7.24.170, 7.24.180, 7.24.190, 7.24.200, and 7.24.210 to the SMC; and repealing Section 7.24.090 of the SMC; all to limit the amount of security deposits and non-refundable move-in fees, to allow residential tenants to pay security deposits, non-refundable move-in fees, and last month's rent in installments, and to establish enforcement provisions for Chapter 7.24.

WHEREAS, before moving into a rental unit, landlords typically require that tenants pay some type of security deposit to ensure that the tenant will comply with certain provisions of the rental agreement, such as payment for damage to the dwelling unit or cleaning the unit when the tenant vacates the unit; and

WHEREAS, before moving into a rental unit, landlords sometimes also require payment of non-refundable fees such as fees for tenant screening reports or cleaning; and

WHEREAS, before moving into a rental unit, landlords typically require that tenants prepay the last month's rent; and

WHEREAS, rents in Seattle have been increasing rapidly and vacancies in rental housing are at low levels, making it increasingly difficult for tenants, especially those with limited finances, to obtain rental housing; and

WHEREAS, rent increases may cause a tenant to move due to inability to pay the increased rent; and

WHEREAS, these conditions in the rental market have created a relocation crisis, because tenants, especially those with limited finances, may be unable to save money to pay security deposits, non-refundable move-in fees, and last month's rent; and

WHEREAS, payment of security deposits, nonrefundable move-in fees, and last month's rent in advance of tenancy, especially for people with limited finances, is one of the barriers to obtaining housing; and

WHEREAS, limiting the amount a landlord can charge for a security deposit and non-refundable move-in fees will help reduce this barrier and allow people to prepare for moving expenses with more certainty; and

WHEREAS, allowing tenants to pay security deposits, non-refundable move-in fees, and last month's rent in installments will help reduce this barrier; and

WHEREAS, the City Council finds that this ordinance will protect and promote the health, safety, and welfare of the general public; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 7.24.020 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

7.24.020 Definitions

* * *

"Director" means the Director of the Seattle Department of Construction and Inspections or the Director's designee.

"Hearing Examiner" means the official appointed by the Council and designated as the Hearing Examiner, or that person's designee (Deputy Hearing Examiner, Hearing Examiner Pro Tem, etc.).

* * *

1 "Landlord" means ~~((a "landlord" as defined in and within the scope of RCW 59.18.030~~
2 ~~and RCW 59.18.040 of the Residential Landlord Tenant Act of 1973 ("RLTA") in effect at the~~
3 ~~time the rental agreement is executed. At the time of passage of the ordinance codified in this~~
4 ~~chapter, RLTA defined "landlord" as "the owner, lessor, or sublessor of the dwelling unit or the~~
5 ~~property of which it is a part," and included "any person designated as representative of the~~
6 ~~landlord))~~ the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part,
7 and in addition means any person designated as representative of the owner, lessor, or sublessor
8 including, but not limited to, an agent, a resident manager, or a designated property manager."

9 "Last month's rent" means money that is paid as rent for the last month of a residential
10 tenancy and that is paid at the inception of the tenancy or in installments as authorized by
11 Section 7.24.036.

12 "Month-to-month tenancy" means a residential tenancy of an indefinite period with
13 monthly or other periodic rent reserved.

14 "Non-refundable move-in fees" means non-refundable fees paid by a tenant to reimburse
15 a landlord for the cost of obtaining a tenant screening report, criminal background check, or
16 credit report or to pay for cleaning of the dwelling unit upon termination of the tenancy, but does
17 not include payment of a reservation fee authorized by RCW 59.18.253(2).

18 "Person" means any individual, firm, corporation, association, governmental entity, or
19 partnership and its agents or assigns.

20 "Pet damage deposit" means money that is paid by the tenant to the landlord at any time
21 as security to pay for damage to the landlord's property that is caused by a pet for which the
22 tenant is responsible.

23 * * *

1 "Security deposit" means any payment, fee, charge, or deposit of money paid to the
2 landlord by the tenant at the beginning of the tenancy as a deposit and security for performance
3 of the tenant's obligations in a written rental agreement, but does not include payment of a
4 reservation fee authorized by RCW 59.18.253(2) or a payment to assure the payment of rent,
5 provided that a security deposit may be applied to rent as provided in Section 7.24.030. Security
6 deposits include payments, charges, or deposits for the purpose of:

7 1. Repairing damage to the premises, exclusive of ordinary wear and tear,
8 caused by the tenant, or by a guest or licensee of the tenant.

9 2. Compensating the landlord for the tenant's breach of the tenant's duties
10 prescribed in the rental agreement to restore, replace, or return personal property or
11 appurtenances.

12 3. Compensating the landlord for the tenant's failure to return keys to the
13 premises, except that a landlord shall not retain any portion of the deposit for keys for lock
14 mechanisms that must be changed upon a change of tenancy pursuant to subsection
15 22.206.140.A.7.

16 * * *

17 Section 2. Section 7.24.030 of the Seattle Municipal Code, last amended by Ordinance
18 119171, is amended as follows:

19 **7.24.030 Rental agreement requirements ((.))**

20 A. Any rental agreement or renewal of a rental agreement for a residential rental unit
21 in ~~((the))~~ The City of Seattle entered into after ~~((the effective date of the ordinance adding this~~
22 ~~subsection A))~~ October 28, 1998, shall include or shall be deemed to include a provision
23 requiring a minimum of ~~((sixty (60)))~~ 60 days' prior written notice whenever the periodic or

1 monthly housing costs to be charged a tenant ~~((is))~~ are to increase by ten ~~((10))~~ percent or more
2 over the periodic or monthly rental rate charged the same tenant for the same housing unit and
3 same services for any period or month during the preceding ~~((twelve (12)))~~ 12-month period.

4 B. No rental agreement entered into after ~~((the effective date of the ordinance~~
5 ~~codified in this chapter))~~ September 29, 1993, that creates or purports to create a tenancy from
6 month to month or from period to period on which rent is payable, may:

7 1. Require occupancy for a minimum term of more than one ~~((4))~~ month or
8 period;

9 2. Impose penalties, whether designated as “additional rent” or fees, if a
10 tenant terminates the tenancy pursuant to law and vacates before expiration of any minimum
11 term prohibited by subsection ~~((B(1) of this section))~~ 7.24.030.B.1;

12 3. Require forfeiture of all or any part of a deposit if the tenant terminates the
13 tenancy pursuant to law and vacates before expiration of any minimum term prohibited by
14 subsection ~~((B(1) of this section))~~ 7.24.030.B.1; provided, that nothing in this ~~((chapter))~~ Chapter
15 7.24 shall prevent a landlord from retaining all or a portion of a deposit as compensation for
16 damage to the premises as provided by law and the rental agreement or, as provided by law, for
17 failure to perform other obligations imposed by the rental agreement.

18 C. Any rental agreement entered into after the effective date of the ordinance
19 introduced as Council Bill 118817 is subject to the requirements of this subsection 7.24.030.C.
20 Security deposits and non-refundable move-in fees are prohibited unless authorized by and
21 identified in a written rental agreement that:

22 1. Describes the terms and conditions under which the security deposit or
23 portion thereof may be retained by the landlord. The landlord shall prepare and provide to the

1 tenant at the commencement of tenancy a written checklist or statement specifically describing
2 the condition and cleanliness of or existing damages to the dwelling unit at the time of
3 occupancy including damages to the premises and furnishings, which include but are not limited
4 to walls, floors, countertops, carpets, drapes, furniture, and appliances. The checklist or
5 statement shall be signed and dated by the landlord and the tenant, and the tenant shall be
6 provided with a copy of the signed checklist or statement.

7 2. Describes the terms and conditions of the payment schedule for the
8 security deposit and non-refundable move-in fees pursuant to subsection 7.24.035.C.

9 D. Any rental agreement entered into after the effective date of the ordinance
10 introduced as Council Bill 118817 is subject to the requirements of this subsection 7.24.030.D.
11 Any payment of last month's rent by the tenant to the landlord shall be authorized by a written
12 rental agreement that:

13 1. Identifies the amount of the last month's rent; and
14 2. Describes the terms and conditions of the payment schedule for the last
15 month's rent if the tenant elects to pay the last month's rent in installments as authorized by
16 Section 7.24.036.

17 E. Any rental agreement entered into after the effective date of the ordinance
18 introduced as Council Bill 118817 shall describe the terms and conditions of any monthly or
19 periodic payments required as a condition of tenancy, including but not limited to: rent, security
20 deposits, non-refundable move-in fee, last month's rent, utility payments, parking charges, late
21 fees authorized by the rental agreement, or other monthly or periodic payments required to be
22 made by the tenant to the landlord. When any monthly or periodic payment is made pursuant to
23 the rental agreement, the landlord shall first apply the payment to the rent due before applying it

1 to other payments due by the tenant to the landlord, except that if the payment is made in
2 response to a notice issued pursuant to RCW 59.12.030 during the period of that notice, the
3 landlord shall first apply the payment to the amount specified in that notice, before applying it to
4 the rent due or to other payments due by the tenant to the landlord.

5 F. Any rental agreement entered into after the effective date of the ordinance
6 introduced as Council Bill 118817 is subject to the requirements of this subsection 7.24.030.F.
7 Any payment of a pet damage deposit shall be authorized by a written rental agreement, or an
8 addendum to the written rental agreement, that:

9 1. Identifies the amount of the pet damage deposit; and
10 2. Describes the terms and conditions of the payment schedule for the pet
11 damage deposit if the tenant elects to pay the pet damage deposit in installments as authorized by
12 Section 7.24.038.

13 Section 3. New Sections 7.24.035, 7.24.036, and 7.24.038 are added to the Seattle
14 Municipal Code as follows:

15 **7.24.035 Security deposits and nonrefundable move-in fees**

16 A. Limit on the amount of charges for security deposits and non-refundable move-in
17 fees. After the effective date of the ordinance introduced as Council Bill 118817, the total
18 amount of a security deposit and nonrefundable move-in fees may not exceed the amount of the
19 first full month's rent for the tenant's dwelling unit. If rent is not paid or otherwise apportioned
20 on a monthly basis, then for the sole purpose of applying this limit the total rent shall be pro-
21 rated on an equal, monthly basis and the total charge to a tenant for the cost of a security deposit
22 and nonrefundable move-in fees may not exceed the pro-rated, monthly rental amount.

1 B. Restrictions on fees

2 1. Other than non-refundable move-in fees, security deposits, pet security
3 deposits, and last month's rent, landlords are prohibited from charging tenants any one-time fee
4 at the beginning of the tenancy.

5 2. Pursuant to RCW 59.18.257, any fees charged to a prospective tenant by
6 the landlord for the cost of obtaining a tenant screening report cannot exceed the actual cost of
7 obtaining the report, which may not exceed the customary costs charged by a tenant screening
8 service in The City of Seattle. The landlord shall provide, personally or by mail, the prospective
9 tenant with a receipt for any fees charged for the cost of obtaining the screening report. The
10 landlord shall provide the tenant with the name and address of the reporting agency and the
11 prospective tenant's rights to obtain a free copy of the consumer report, pursuant to RCW
12 59.18.257.

13 3. If the tenant has paid a non-refundable move-in fee for cleaning, the
14 landlord may not deduct additional cleaning fees from the tenant's security deposit.

15 4. The total amount of non-refundable move-in fees may not exceed ten
16 percent of the first full month's rent, except that if the cost of a tenant screening report exceeds
17 ten percent of the first full month's rent, the amount in excess of ten percent may be included in
18 the non-refundable fee but may not exceed the customary costs charged by a screening service in
19 The City of Seattle.

20 C. Fee payments in installments. Except as provided in subsection 7.24.035.C.4,
21 tenants may pay security deposits and non-refundable move-in fees in installments as provided
22 below. Landlords may not impose any fee, charge any interest, or otherwise impose a cost on a
23 tenant because a tenant elects to pay in installments.

1 1. For any rental agreement term that establishes a tenancy for six months or
2 longer, the tenant may elect to pay the security deposit and non-refundable move-in fees,
3 excluding any payment made by a tenant to the landlord prior to the inception of tenancy to
4 reimburse the landlord for the cost of obtaining a tenant screening report, in six consecutive,
5 equal monthly installments that begin at the inception of the tenancy or, the tenant may propose
6 an alternative installment schedule. If the landlord agrees to the tenant's alternative installment
7 schedule the schedule shall be described in the rental agreement.

8 2. For any rental agreement term that establishes a tenancy between 30 days
9 and six months, the tenant may elect to pay the security deposit and non-refundable move-in
10 fees, excluding any payment made by a tenant to the landlord prior to the inception of tenancy to
11 reimburse the landlord for the cost of obtaining a tenant screening report, in no more than four
12 equal amounts that begin at the inception of the tenancy and are paid in installments of equal
13 duration or, the tenant may propose an alternative installment schedule. If the landlord agrees to
14 the tenant's alternative installment schedule the schedule shall be described in the rental
15 agreement.

16 3. For any rental agreement term that establishes a tenancy from month to
17 month, the tenant may elect to pay the security deposit and non-refundable move-in fees,
18 excluding any payment made by a tenant to the landlord prior to the inception of tenancy to
19 reimburse the landlord for the cost of obtaining a tenant screening report, in two equal
20 installments. The first payment is due at the inception of the tenancy and the second payment is
21 due on the first day of the second month or period of the tenancy or, the tenant may propose an
22 alternative installment schedule. If the landlord agrees to the tenant's alternative installment
23 schedule the schedule shall be described in the rental agreement.

1 4. The tenant cannot elect to pay the security deposit and non-refundable
2 move-in fees in installments if (a) the total amount of the security deposit and nonrefundable
3 move-in fees does not exceed 25 percent of the first full month's rent for the tenant's dwelling
4 unit; and (b) payment of last month's rent is not required at the inception of the tenancy.

5 5. A tenant's failure to pay a security deposit and non-refundable move-in
6 fee according to an agreed payment schedule is a breach of the rental agreement and subjects the
7 tenant to a 10-day notice pursuant to RCW 59.12.030(4).

8 D. Return or retention of security deposits. The return or retention of a security
9 deposit, or portion thereof, must comply with the requirements of RCW 59.18.280. The Director
10 may establish by rule procedures for enforcement of the requirements of RCW 59.18.280.

11 E. No deposit may be collected by a landlord unless the rental agreement is in
12 writing and a written checklist or statement specifically describing the condition and cleanliness
13 of or existing damages to the premises and furnishings, including, but not limited to, walls,
14 floors, countertops, carpets, drapes, furniture, and appliances, is provided by the landlord to the
15 tenant at the commencement of the tenancy. The checklist or statement shall be signed and dated
16 by the landlord and the tenant, and the tenant shall be provided with a copy of the signed
17 checklist or statement.

18 F. A landlord must place any required security deposit in a trust account and provide
19 a written receipt and notice of the name, address, and location of the depository and any
20 subsequent change thereof to the tenant, in compliance with the requirements of RCW
21 59.18.270.

22 G. Nothing in this Chapter 7.24 prohibits a landlord from bringing an action against a
23 tenant to recover sums exceeding the amount of the tenant's security deposit for damage to the

dwelling unit for which the tenant is responsible. The landlord may seek attorney's fees for such an action as authorized by chapter 59.18 RCW.

H. This Section 7.24.035 does not apply to a tenant who rents a housing unit in a single-family residence if the residence is the principal residence of the owner of the residence.

7.24.036 Installment payment option for last month's rent

A tenant may elect to pay last month's rent in installments as follows:

A. For any rental agreement term that establishes a tenancy for six months or longer, the tenant may elect to pay the last month's rent in six consecutive, equal monthly installments that begin at the inception of the tenancy or, the tenant may propose an alternative installment schedule. If the landlord agrees to the tenant's alternative installment schedule the schedule shall be described in the rental agreement.

B. For any rental agreement term that establishes a tenancy between 60 days and six months, the tenant may elect to pay the last month's rent in no more than four equal amounts that begin at the inception of the tenancy and are paid in installments of equal duration or, the tenant may propose an alternative installment schedule. If the landlord agrees to the tenant's alternative installment schedule the schedule shall be described in the rental agreement.

C. Landlords may not impose any fee, charge any interest, or otherwise impose a cost on a tenant because a tenant elects to pay the last month's rent in installments.

D. This Section 7.24.036 does not apply to a tenant who rents a housing unit in a single-family residence if the residence is the principal residence of the owner of the residence.

7.24.038 Pet Damage Deposits

A. Except as provided in subsection 7.24.038.B, the landlord may require payment of a pet damage deposit provided that the total amount of the pet damage deposit may not exceed

25 percent of the first full month's rent, regardless of the time when the pet damage deposit is paid. If rent is not paid or otherwise apportioned on a monthly basis then for the sole purpose of applying this limit the total rent shall be pro-rated on an equal, monthly basis and the total charge to a tenant for the pet damage deposit may not exceed 25 percent of the pro-rated, monthly rental amount.

B. The landlord may not require a pet damage deposit if the pet serves as an assistance animal for the tenant. This prohibition does not prohibit a landlord from bringing an action for damages resulting from damage to the landlord's property caused by the tenant's assistance animal.

C. If the pet's occupancy begins at the beginning of tenancy, the amount of the pet damage deposit shall be specified in a rental agreement. If the pet's occupancy begins after the beginning of the tenancy, the amount of the pet damage deposit shall be specified in an addendum to the rental agreement. The tenant may elect to pay the pet damage deposit in three consecutive, equal monthly installments that begin when the pet first occupies the rental unit or, the tenant may propose an alternative installment schedule. If the landlord agrees to the tenant's alternative installment schedule the schedule shall be described in the rental agreement.

D. The landlord cannot keep any portion of the pet damage deposit for damage that was not caused by pets for which the tenant is responsible.

E. Other than the pet damage deposit authorized by subsection 7.24.038.A, the landlord may not charge the tenant any fee for keeping a pet.

Section 4. Section 7.24.040 of the Seattle Municipal Code, enacted by Ordinance 116843, is amended as follows:

7.24.040 Provisions in violation of restrictions null and void ((:))

Any provisions in ~~((violation of))~~ a rental agreement that violate Section 7.24.030 of this chapter ~~((in a rental agreement))~~ are null and void and of no lawful force and effect.

Section 5. Section 7.24.050 of the Seattle Municipal Code, last amended by Ordinance 119171, is amended as follows:

7.24.050 Defense in commencing action—Fees and costs awarded ((:))

In any action commenced for unlawful detainer or to enforce a rental agreement, to impose penalties, or to forfeit a deposit contrary to rental agreement provisions required by ~~((Section 7.24.030 A of this chapter))~~ subsections 7.24.030.A, 7.24.030.C, or 7.24.030.D or pursuant to rental agreement provisions prohibited by ~~((Section 7.24.030 B of this chapter))~~ subsections 7.24.030.B and 7.24.035, it ~~((shall be))~~ is a defense to such action that such provisions are contrary to the requirements for rental agreements imposed by this chapter, and a tenant who prevails on such defense shall be awarded reasonable attorney fees and costs.

Section 6. Section 7.24.060 of the Seattle Municipal Code, last amended by Ordinance 119171, is amended as follows:

7.24.060 ~~((Landlord liability to tenant.))~~ Private right of action

A. Landlord liability to tenant

1. If a landlord attempts to enforce provisions in a rental agreement that are contrary to ~~((those required to be included in a rental agreement by Section 7.24.030 A or includes provisions prohibited by Section 7.24.030 B in a rental agreement entered into after the effective date of this ordinance))~~ the requirements of Sections 7.24.030, 7.24.035, 7.24.036, or 7.24.038, the landlord shall be liable to the tenant for: 1) any actual damages incurred by the tenant as a result of the landlord's attempted enforcement; ((plus)) 2) double the amount of any

penalties imposed by the City; ~~((or))~~ 3) double the amount of any security deposit ~~((forfeited,))~~
unlawfully charged or withheld by the landlord; ~~((as well as))~~ and 4) reasonable attorney fees and
costs. ~~((Prior to seeking damages and penalties for failure to return a security deposit, the tenant
must have requested return of the security deposit from the landlord.))~~

~~((B.))~~ 2. A landlord who includes provisions prohibited by ~~((Section
7.24.030 B))~~ subsection 7.24.030.B, Section 7.24.035, Section 7.24.036, or Section 7.24.038 in a
new rental agreement, or in a renewal of an existing agreement, shall be liable to the tenant for
~~((One Thousand Dollars (\$1,000)))~~ up to \$3,000 plus reasonable attorney fees and costs.

B. Remedies for tenants if landlord fails to comply

1. If a landlord fails to comply with the requirements of subsections 7.24.080.A or
7.24.080.B and such failure was not caused by the tenant, the tenant may terminate the rental
agreement by written notice pursuant to law.

2. In addition to the remedy provided by subsection 7.24.060.B.1, if a landlord
fails to comply with the requirements of Section 7.24.080, the tenant may recover in a civil
action from the landlord actual damages, attorney fees, and a penalty of up to \$500. If a court
determines that the landlord deliberately failed to comply with the requirements of Section
7.24.080, the penalty may be up to \$1,000.

Section 7. Section 7.24.070 of the Seattle Municipal Code, enacted by Ordinance 116843,
is amended as follows:

7.24.070 Summaries of landlord and tenant rights ~~((:))~~

The Department shall, as soon as practicable after passage of the ordinance ~~((codified in
this chapter))~~ introduced as Council Bill 118817, and as the Department shall deem necessary
thereafter, prepare a summary of this chapter, and of the Housing and Building Maintenance

1 Code, the Tenant Relocation Assistance Ordinance, ~~((and of))~~ the Condominium Conversion
2 Ordinance, ~~((and))~~ the Cooperative Conversion Ordinance, the Mobile Homes and Mobile Home
3 Parks Ordinance, the Third Party Billing Ordinance, the Rental Registration and Inspection
4 Ordinance, and the Washington State Residential Landlord Tenant Act, describing the respective
5 rights, obligations, and remedies of landlords and tenants thereunder, and shall make such
6 summaries available at cost for public inspection and copying. The summaries prepared by the
7 Department shall serve as informational documents only, and nothing therein shall be construed
8 as binding on or affecting any judicial determination of the rights and responsibilities of
9 landlords and tenants, nor shall the Department be liable for any misstatement or
10 misinterpretation of the applicable laws.

11 Section 8. Section 7.24.080 of the Seattle Municipal Code, enacted by Ordinance 116843,
12 is amended as follows:

13 **7.24.080 Distribution of summaries by landlord required ((-))**

14 A. A copy of ~~((any recent))~~ summaries prepared by the Director pursuant to Section
15 7.24.070 that pertain to the type of tenancy or activity described in a summary ~~((, along with any~~
16 ~~recent summary of the Residential Landlord-Tenant Act prepared by the Office of the Attorney~~
17 ~~General of the State of Washington;))~~ shall be ~~((attached to each written rental agreement and))~~
18 provided to any tenant or prospective tenant by or on behalf of a landlord when such rental
19 agreement is offered, whether or not such agreement is for a new or renewal rental agreement.
20 For a renewal of a rental agreement, the landlord may provide the copy of the summaries to the
21 tenant electronically. A landlord must distribute the summaries annually to tenants having
22 month-to-month tenancies.

1 B. Where there is an oral agreement, the landlord shall give the tenant copies of the
2 summaries described in Section 7.24.070 ~~((and subsection A of this section))~~ either before
3 entering into the oral agreement or as soon as reasonably possible after entering into the oral
4 agreement.

5 C. For existing tenants, landlords shall, within ~~((thirty (30)))~~ 30 days after available,
6 or within a reasonable time thereafter, distribute current copies of the summaries described in
7 Section 7.24.070 ~~((and subsection A of this section))~~ to existing tenants.

8 Section 9. Section 7.24.090 of the Seattle Municipal Code, enacted by Ordinance 116843,
9 is repealed:

10 ~~((7.24.090 Remedies for tenants if landlord fails to comply.~~

11 A. ~~— If a landlord fails to comply with the requirements of subsection A or B of~~
12 ~~Section 7.24.080 and such failure was not caused by the tenant, the tenant may terminate the~~
13 ~~rental agreement by written notice pursuant to law.~~

14 B. ~~— In addition to the remedy provided by subsection A of this section, if a landlord~~
15 ~~fails to comply with the requirements of subsection A, B or C of Section 7.24.080, the tenant~~
16 ~~may recover in a civil action from the landlord actual damages, attorney fees and a penalty of~~
17 ~~One Hundred Dollars (\$100.00). If a court determines that the landlord deliberately failed to~~
18 ~~comply with the requirements of subsection A, B or C of Section 7.24.080, the penalty shall be~~
19 ~~Two Hundred Dollars (\$200.00).))~~

20 Section 10. New Sections 7.24.110, 7.24.120, 7.24.130, 7.24.140, 7.24.150 and 7.24.160
21 are added to the Seattle Municipal Code as follows:

22 **7.24.110 Retaliation prohibited**

1 A. It is a violation of this Chapter 7.24 for any person to retaliate against a tenant or
2 prospective tenant because the tenant or prospective tenant exercised or attempted to exercise
3 rights conferred by this Chapter 7.24. Retaliation means any of the following actions:

4 1. Refusing to provide, accept, or approve a rental application or a rental
5 agreement.

6 2. Applying more onerous terms, conditions, or privileges, including
7 increased rent, to a tenant or prospective tenant who exercises his or her rights under this Chapter
8 7.24 than to a tenant or prospective tenant who does not assert those rights.

9 3. Misrepresenting any material fact when providing a rental reference about
10 a tenant.

11 4. Threatening to allege to a government agency that a tenant or prospective
12 tenant, or a family member of a tenant or prospective tenant, is not lawfully in the United States.

13 B. If a person takes any of the actions identified in subsection 7.24.110.A within 90
14 days of the date a tenant or prospective tenant exercises rights conferred by this Chapter 7.24, it
15 is presumed that the action was taken in retaliation for the exercise of those rights. The person
16 taking the actions may rebut the presumption by producing clear and convincing evidence that
17 the actions were not retaliatory.

18 **7.24.120 Administration and enforcement**

19 A. The Director shall administer and enforce the provisions of this Chapter 7.24 and
20 is authorized to adopt reasonable rules and regulations consistent with this Chapter 7.24 to carry
21 out the Director's duties.

22 B. The first and second violations of this Chapter 7.24 shall be enforced under the
23 citation provisions set forth in Section 7.24.130. Subsequent violations may be enforced, at the

Director's discretion, under the notice of violation provisions set forth in Section 7.24.140 or criminal provisions set forth in Section 7.24.150.

7.24.130 Citation

A. Citation. If after investigation the Director determines that the standards or requirements of this Chapter 7.24 have been violated, the Director may issue a citation to the person responsible for the violation. The citation shall include the following information:

1. The name and address of the responsible person to whom the citation is issued;
2. A reasonable description of the location of the property on which the violation occurred;
3. A separate statement of each standard or requirement violated;
4. The date of the violation;
5. A statement that the person cited must respond to the citation within 15 days after service;
6. A space for entry of the applicable penalty;
7. A statement that a response must be sent to the Hearing Examiner and received not later than 5 p.m. on the day the response is due;
8. The name, address, and phone number of the Hearing Examiner where the citation is to be filed;
9. A statement that the citation represents a determination that a violation has been committed by the responsible person named in the citation and that the determination shall be final unless contested as provided in subsection 7.24.130.C; and

1 10. A certified statement of the inspector issuing the citation, authorized by
2 RCW 9A.72.085, setting forth facts supporting issuance of the citation.

3 B. Service. The citation may be served by personal service in the manner set forth in
4 RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known
5 address of such person(s). Service shall be complete at the time of personal service, or if mailed,
6 three days after the date of mailing. If a citation sent by first class mail is returned as
7 undeliverable, service may be made by posting the citation at a conspicuous place on the
8 property.

9 C. Response to citations

- 10 1. A citation must be responded to in one of the following ways:
- 11 a. Payment of the monetary penalty specified in the citation, in which
12 case the record shall show a finding that the person cited committed the violation; or
- 13 b. A written request for a mitigation hearing to explain the
14 circumstances surrounding the commission of the violation and providing an address to which
15 notice of such hearing may be sent; or
- 16 c. A written request for a contested hearing specifying the reason(s)
17 why the cited violation did not occur or why the person cited is not responsible for the violation,
18 and providing an address to which notice of such hearing may be sent.

19 2. A response to a citation must be received by the Office of the Hearing
20 Examiner no later than 15 days after the date the citation is served. When the last day of the
21 appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run
22 until 5 p.m. on the next business day.

1 D. Failure to respond. If the Office of the Hearing Examiner does not receive a
2 response within 15 days of service of the citation, the Hearing Examiner shall enter an order
3 finding that the person cited committed the violation stated in the citation, and assessing the
4 penalty specified in the citation.

5 E. Hearings

6 1. Mitigation hearings

7 a. Date and notice. If a mitigation hearing is requested, the mitigation
8 hearing shall be held within 30 days after written response to the citation requesting such hearing
9 is received by the Hearing Examiner. Notice of the time, place, and date of the hearing shall be
10 sent to the address specified in the request for hearing not less than ten days prior to the date of
11 the hearing.

12 b. Procedure at hearing. The Hearing Examiner shall hold an informal
13 hearing that shall not be governed by the Rules of Evidence. The person cited may present
14 witnesses, but witnesses may not be compelled to attend. A representative from the Seattle
15 Department of Construction and Inspections may also be present and may present additional
16 information, but attendance by a representative from the Seattle Department of Construction and
17 Inspections is not required.

18 c. Disposition. The Hearing Examiner shall determine whether the
19 cited person's explanation justifies reduction of the monetary penalty; however, the monetary
20 penalty may not be reduced unless the Seattle Department of Construction and Inspections
21 affirms or certifies that the violation has been corrected prior to the mitigation hearing. Factors
22 that may be considered in whether to reduce the penalty include whether the violation was
23 caused by the act, neglect, or abuse of another; or whether correction of the violation was

1 commenced promptly prior to citation but that full compliance was prevented by a condition or
2 circumstance beyond the control of the person cited.

3 d. Entry of order. After hearing the explanation of the person cited
4 and any other information presented at the hearing, the Hearing Examiner shall enter an order
5 finding that the person cited committed the violation and assessing a monetary penalty in an
6 amount determined pursuant to subsection 7.24.130.F. The Hearing Examiner's decision is the
7 final decision of the City on the matter.

8 2. Contested hearing

9 a. Date and notice. If a person requests a contested hearing, the
10 hearing shall be held within 60 days after the written response to the citation requesting such
11 hearing is received.

12 b. Hearing. Contested hearings shall be conducted pursuant to the
13 procedures for hearing contested cases contained in Section 3.02.090 and the rules adopted by
14 the Hearing Examiner for hearing contested cases, except as modified by this subsection
15 7.24.130.E.2. The issues heard at the hearing shall be limited to those that are raised in writing in
16 the response to the citation and that are within the jurisdiction of the Hearing Examiner. The
17 Hearing Examiner may issue subpoenas for the attendance of witnesses and the production of
18 documents.

19 c. Sufficiency. No citation shall be deemed insufficient for failure to
20 contain a detailed statement of the facts constituting the specific violation which the person cited
21 is alleged to have committed or by reason of defects or imperfections, provided such lack of
22 detail or defects or imperfections do not prejudice substantial rights of the person cited.

1 d. Amendment of citation. A citation may be amended prior to the
2 conclusion of the hearing to conform to the evidence presented if substantial rights of the person
3 cited are not thereby prejudiced.

4 e. Evidence at hearing. The certified statement or declaration
5 authorized by RCW 9A.72.085 shall be prima facie evidence that a violation occurred and that
6 the person cited is responsible. The certified statement or declaration authorized under RCW
7 9A.72.085 and any other evidence accompanying the report shall be admissible without further
8 evidentiary foundation. The person cited may rebut the Department of Construction and
9 Inspections' evidence and establish that the cited violation(s) did not occur or that the person
10 contesting the citation is not responsible for the violation.

11 f. Disposition. If the citation is sustained at the hearing, the Hearing
12 Examiner shall enter an order finding that the person cited committed the violation. If the
13 violation remains uncorrected, the Hearing Examiner shall impose the applicable penalty. The
14 Hearing Examiner may reduce the monetary penalty in accordance with the mitigation provisions
15 in subsection 7.24.130.E.1 if the violation has been corrected. If the Hearing Examiner
16 determines that the violation did not occur, the Hearing Examiner shall enter an order dismissing
17 the citation.

18 g. Appeal. The Hearing Examiner's decision is final and conclusive
19 unless, within ten calendar days of the date of the Hearing Examiner decision, an application or
20 petition for a writ of review is filed in King County Superior Court. Judicial review shall be
21 confined to the record of the administrative hearing. The Superior Court may reverse the Hearing
22 Examiner decision only if the decision is arbitrary and capricious, contrary to law, in excess of

1 the authority or jurisdiction of the Hearing Examiner, made upon unlawful procedure, or in
2 violation of constitutional provisions.

3 3. Failure to appear for hearing. Failure to appear for a requested hearing will
4 result in an order being entered finding that the person cited committed the violation stated in the
5 citation and assessing the penalty specified in the citation. For good cause shown and upon terms
6 the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon a
7 failure to appear.

8 F. Citation penalties

9 1. The following penalties shall be assessed for violations of any provision of
10 this Chapter 7.24:

11 a. Five hundred dollars for the first violation; and
12 b. One thousand dollars for each subsequent violation within a 5-year
13 period.

14 2. Violation warning. The Director may, in an exercise of discretion, issue a
15 warning to the person responsible for the violation if that person has not been previously warned
16 or cited for violating this Chapter 7.24.

17 3. Collection of penalties. If the person cited fails to pay a penalty imposed
18 pursuant to this Section 7.24.130, the penalty may be referred to a collection agency. The cost to
19 the City for the collection services will be assessed as costs, at the rate agreed to between the
20 City and the collection agency, and added to the penalty. Alternatively, the City may pursue
21 collection in any other manner allowed by law.

22 **7.24.140 Notice of violation**

23 A. Investigation and notice of violation issuance

1 1. If after investigation the Director determines that the standards or
2 requirements of this Chapter 7.24 have been violated, and the person responsible for the violation
3 has had two or more citations issued within the past three years for violating this Chapter 7.24,
4 the Director may issue a notice of violation to the person responsible for the violation. The notice
5 of violation shall state separately each standard or requirement violated, shall state what
6 corrective action, if any, is necessary to comply with the standards or requirements, and shall set
7 a reasonable time for compliance.

8 2. The notice shall be served upon the person responsible for the violation by
9 personal service, or by first class mail to the person's last known address. If the address of the
10 responsible person is unknown and cannot be found after a reasonable search, the notice may be
11 served by posting a copy of the notice at a conspicuous place on the property. If a notice of
12 violation is directed to a person responsible for the violation who is not the owner, a copy of the
13 notice shall be sent to the owner of the property.

14 3. A copy of the notice of violation may be filed with the King County
15 Department of Records and Elections when the responsible person fails to correct the violation or
16 the Director requests the City Attorney take appropriate enforcement action.

17 B. Review of the notice of violation by the Director

18 1. Any person significantly affected by or interested in a notice of violation
19 issued by the Director pursuant to subsection 7.24.140.A may obtain a review of the notice by
20 requesting such review within ten days after service of the notice. When the last day of the
21 period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5
22 p.m. on the next business day. The request shall be in writing, and upon receipt of the request,
23 the Director shall notify any persons served the notice of violation and the complainant, if any, of

1 the request for review and the deadline for submitting additional information for the review.
2 Additional information shall be submitted to the Director no later than 15 days after the notice of
3 a request for a review is mailed, unless otherwise agreed by all persons served with the notice of
4 violation. Before the deadline for submission of additional information, any person significantly
5 affected by or interested in the notice of violation (including any persons served the notice of
6 violation and the complainant) may submit any additional information in the form of written
7 material or oral comments to the Director for consideration as part of the review.

8 2. The review will be made by a representative of the Director who is
9 familiar with the case and the applicable ordinances. The Director's representative will review all
10 additional information received by the deadline for submission of additional information. The
11 reviewer may also request clarification of information received and a site visit. After review of
12 the additional information, the Director may:

- 13 a. sustain the notice of violation;
14 b. withdraw the notice of violation;
15 c. continue the review to a date certain for receipt of additional
16 information; or
17 d. modify the notice of violation, which may include an extension of
18 the compliance date.

19 3. Where review by the Director has been conducted pursuant to this
20 subsection 7.24.140.B, the Director shall issue an order of the Director containing the decision
21 within 15 days of the date that the review is completed and shall cause the same to be mailed by
22 regular first class mail to the person or persons named on the notice of violation and, if possible,

1 mailed to the complainant. Unless a request for review before the Director is made pursuant to
2 this subsection 7.24.140.B, the notice of violation shall become the order of the Director.

3 C. Extension of compliance date for the notice of violation. The Director may grant
4 an extension of time for compliance with any notice or order, whether pending or final, upon the
5 Director's finding that substantial progress toward compliance has been made and that the public
6 will not be adversely affected by the extension. An extension of time may be revoked by the
7 Director if it is shown that the conditions at the time the extension was granted have changed, the
8 Director determines that a party is not performing corrective actions as agreed, or if the extension
9 creates an adverse effect on the public. The date of revocation shall then be considered the
10 compliance date.

11 D. Civil enforcement proceedings and penalties for a notice of violation

12 1. In addition to any other remedy authorized by law or equity, any person
13 violating or failing to comply with any of the provisions of this Chapter 7.24 shall be subject to a
14 cumulative penalty of up to \$150 per day for each violation from the date the violation begins for
15 the first ten days of noncompliance; and up to \$500 per day for each violation for each day
16 beyond ten days of noncompliance until compliance is achieved. In cases where the Director has
17 issued a notice of violation, the violation will be deemed to begin for purposes of determining
18 the number of days of violation on the date compliance is required by the notice of violation. The
19 City shall also be entitled to recovery of its enforcement costs, including but not limited to staff
20 time, administrative expenses and fees, and attorneys' fees.

21 2. The penalty imposed by subsection 7.24.140.D.1 shall be collected by
22 civil action brought in Seattle Municipal Court or as otherwise required by law. The Director
23 shall request in writing that the City Attorney take enforcement action and the City Attorney

1 shall, with the assistance of the Director, take appropriate action to enforce this Chapter 7.24. In
2 any civil action for a penalty, the City has the burden of proving by a preponderance of the
3 evidence that a violation exists or existed; the issuance of the notice of violation or of an order
4 following a review by the Director is not itself evidence that a violation exists.

5 E. Final decisions of the Seattle Municipal Court on enforcement actions authorized
6 by this Section 7.24.140 may be appealed pursuant to the Rules for Appeal of Decisions of
7 Courts of Limited Jurisdiction.

8 **7.24.150 Alternative criminal penalty**

9 Any person who violates or fails to comply with any of the provisions in this Chapter
10 7.24 and who has had at least two or more citations and one notice of violation issued against
11 them for violating this Chapter 7.24 within the past three years from the date the criminal
12 charge is filed shall upon conviction be guilty of a misdemeanor subject to the provisions of
13 Chapters 12A.02 and 12A.04, except that absolute liability shall be imposed for such a violation
14 or failure to comply and none of the mental states described in Section 12A.04.030 need be
15 proved. The Director may request the City Attorney prosecute such violations criminally as an
16 alternative to the citation and notice of violation procedures outlined in this chapter.

17 **7.24.160 Additional relief**

18 The Director may seek legal or equitable relief at any time to enjoin any acts or practices
19 that violate the provisions of this Chapter 7.24.

20 Section 11. The City Council requests that the Office of City Auditor, in consultation
21 with the Seattle Department of Construction and Inspections and the Office of Housing, evaluate
22 trends in the rental market to inform future decisions about maintaining or amending the
23 provisions included in the ordinance introduced as Council Bill 118817. This should include an

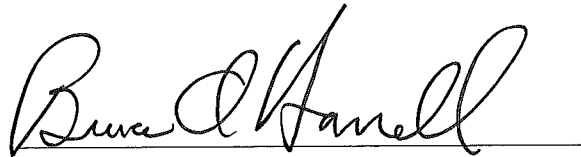
1 assessment at initial implementation and after one year of implementation of aspects of the rental
2 market that may be impacted by this legislation, including but not limited to: analysis of existing
3 data sources to measure changes in rents charged and evictions; surveying tenants and landlords
4 about recent rental transactions including the amount charged for security deposits and non-
5 refundable move-in fees, installment plan terms and conditions, and the return or retention of
6 security deposits. The City Auditor, at their discretion, may retain an independent, outside party
7 to conduct the evaluation. The evaluation shall be submitted to the City Council by June 2018.

8 Section 12. The Seattle Department of Construction and Inspections (SDCI) shall, in
9 coordination with the Office for Immigrant and Refugee Affairs, Department of Neighborhoods,
10 and the Office of Civil Rights, conduct outreach and prepare educational materials to better
11 inform limited English proficient communities and immigrant and refugee communities of the
12 protections and responsibilities of tenants and landlords under these regulations. SDCI shall
13 report to the City Council on the outcomes of this outreach and educational work within six
14 months of the effective date of the ordinance introduced as Council Bill 118817.

15 Section 13. The provisions of this ordinance are declared to be separate and severable.
16 The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this
17 ordinance, or the invalidity of its application to any person or circumstance, does not affect the
18 validity of the remainder of this ordinance, or the validity of its application to other persons or
19 circumstances.

Section 14. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 12th day of December, 2016,
and signed by me in open session in authentication of its passage this 12th day of
December, 2016.



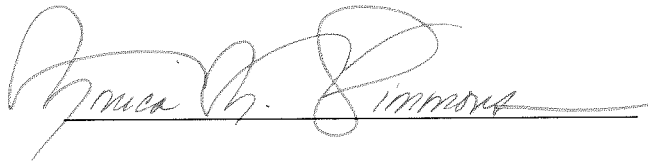
President _____ of the City Council

Approved by me this 16th day of December, 2016.



Edward B. Murray, Mayor

Filed by me this 16th day of December, 2016.



Monica Martinez Simmons, City Clerk

(Seal)



City of Seattle
Mayor Edward B. Murray

December 16, 2016

Monica Martinez Simmons
Seattle City Clerk
600 4th Avenue, 3rd Floor
Seattle, WA 98124

Dear Ms. Martinez Simmons,

I have signed and am returning Council Bill 118817 to the Office of the City Clerk with the following statement:

Increasing access to affordable housing is a cornerstone of my administration. I wholeheartedly support the goal of protecting tenants, which is why I have signed this legislation despite some reservations about its impacts on small landlords. The restriction on security deposits has the potential to open family-run rentals up to increased risk. Additionally, these small properties frequently do not have the staff or oversight to keep up with the ever-changing regulatory framework around rental properties.

According to the Seattle Department of Construction and Inspections, 21 percent of rental units in Seattle are housed on properties with fewer than five units. Such properties are the heart of our naturally occurring affordable housing stock, and I am concerned this bill could lead to more small rentals raising rents or selling their properties to expensive professional property management companies.

I am pleased that the bill requests the City Auditor evaluate the impacts of this legislation once it is implemented in order to inform future decisions about maintaining or amending the policy. I am eager to see what we learn, and as these new regulations go into effect next year I will be closely monitoring their impact to see if any changes are needed to preserve affordability.

Sincerely,

Edward B. Murray
Mayor of Seattle